Single Bench

(5)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

(S) 6252

WRIT PETITION NO. OF 2006

BETWEEN

Banshi Lal Sahu S/o Shri D.R.Sahu, aged about 57 years, occupation service, working as Sub Inspector in the Chhattisgarh Police , posted at City Kotwali Mahasamund, resident of Mahasamund, Tahsil and District Mahasamund (CG).

P.R. No. 6422/06
Presented by Shri Arun Kashyap
dated 16-11-06

PETITIONER

AND

1. The State of Chhattisgarh,
Through the Secretary Department of Home Affairs, Mantralay, D.K.S. Building, Raipur (C.G.)

2. The State of Chhattisgarh, Through the Under Secretary, Department of Home, Mantralay, D.K.S. Building, Raipur (CG).

3. The Director General of Police , PHQ Raipur, Tahsil and district Raipur (CG).

4. The Superintend of Police, Mahasamund, Tahsil and District Raipur (CG).

RECEIVED COPY
16/11/06
Clerk to A.G. Bilaspur

OATH COMMISSIONER
S.R. Kaushik
16/11/06
BILASPUR TAHSIL AREA

RESPONDENTS

WRIT PETITION UNDER ARTICLE 226 OF CONSTITUTION OF INDIA

(53)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition (S) No. 6852 of 2006

Petitioner: Banshi Lal Sahu

Versus

Respondents: The State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Shri Sunil Sahu, Advocate for the petitioner.
Shri Arvind Dubey, Panel lawyer for the respondents/State.

ORDER

(Passed on 9th day of January, 2007)

1. Learned counsel appearing for the petitioner submits that the petitioner was employed as Sub-Inspector. By the order dated 9/10.3.2006 (P/3), the petitioner was transferred from District Mahasamund to Surguja Range.
2. Earlier, the petitioner had filed a writ petition, being W.P. No. 1354 of 2006, impugning the said transfer order. This Court after hearing learned counsel for the petitioner as well as learned counsel for the State came to the conclusion that the ends of justice would be served if a direction is given to the petitioner to make a detailed representation. It was further directed that the competent authority of the respondents/State shall decide the representation

on its own merit in accordance with law, as early as possible, preferably, within a period of two months from the date of receipt of the representation.

3. The petitioner has filed a representation on 22.4.2006 (P/7). The Home Department, Government of Chhattisgarh, through the Under Secretary it appears, have considered all the aspects of the matter and by order dated 27.5.2006 (P/8), dismissed the representation filed by the petitioner.

4. The petitioner has filed the second writ petition, the instant one, on 16.11.2006 impugning the transfer order as well as the order dated 27.6.2006 passed in the representation. So far as the transfer order is concerned that has already been considered by this Court and the petition was disposed of by the order dated 21.3.2006 (P/6). This Court cannot entertain the second petition for the same cause of action and the same relief as a matter of public policy.

5. With regard to the order dated 27.6.2006 (P/8) passed by the respondent/State, learned counsel for the petitioner points out to the transfer policy dated 1.4.2006 (P/4), wherein it is clearly provided that the Sub-Inspector has to serve naxalite infested areas for minimum 10 years during his service period and in one term he has to serve for 5 years and thereafter he can be transferred to other places. Admittedly, the petitioner has served at the present place i.e. District Mahasamund for two and half years. It is

(55)

submitted by learned counsel for the petitioner that the petitioner has served more than two and half years in the Kanker district, North Bastar and vide order dated 15.9.2003 he has been transferred from district Kanker to district Mahasamund. District Kanker is also naxalite infested area.

6. There is no reason to interfere with the transfer order, particularly in the facts of the case when several areas of this State are infested with naxalite problems. The police personnel cannot insist upon staying in any other areas throughout his career.

7. Be that as it may, it is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere in the transfer matter and this Court can interfere only in the case of proved malafide, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations. None of the above grounds are available to the petitioner.

8. The writ petition is accordingly dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Bablu